<div align="center">REMARKS</div>

Claims 1-27 are pending in the Application. Claims 1-12 and 24-25 are rejected under 35 U.S.C. §112, first paragraph. Claims 14-18 and 27 are rejected under 35 U.S.C. §112, second paragraph. Claims 13, 23 and 26 are rejected under 35 U.S.C. §102(b). Claims 1-3, 6-9, 12, 19-21 and 24 are rejected under 35 U.S.C. §103(a). Applicants respectfully traverse these rejections for at least the reasons stated below and respectfully request that the Examiner reconsider and withdraw these rejections.

I.   REJECTIONS UNDER 35 U.S.C. §112, FIRST PARAGRAPH:

The Examiner has rejected claims 1-12 and 24-25 under 35 U.S.C. §112, first paragraph, for failing to comply with the enablement requirement. Paper No. 3, page 2. In particular, the Examiner states:

> The Specification does not explicitly describe how to store the updated boot code onto a read only memory. One skilled in the art in using the invention would go through extensive experimentation in determining how to store data onto a medium that is read-only. Paper No. 3, page 2.

Applicants respectfully assert that claims 1-12 and 24-25 comply with the enablement requirement under 35 U.S.C. §112, first paragraph, and that claims are allowable under 35 U.S.C. §112, first paragraph.

Applicants respectfully assert that the disclosure, when filed, contained sufficient information regarding the subject matter of the claims as to enable one skilled in the art to make and use the claimed invention. The standard for determining whether the Specification meets the enablement requirement was cast in the Supreme Court decision of *Mineral Separation v. Hyde*, 242 U.S. 261, 270 (1916) which postured the question: is the experimentation needed to practice the invention undue or unreasonable? Applicants respectfully assert that there is no undue or unreasonable experimentation to practice the invention.

The Examiner has not provided any evidence that there is undue or unreasonable experimentation to practice the invention. The test of enablement is

whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation. *United States v. Telectronics, Inc.*, 857 F.2d 778, 785 (Fed. Cir. 1988); M.P.E.P. §2164.01. There are many factors to be considered when determining whether there is sufficient evidence to support a determination that there exists undue experimentation. These include the breadth of the claims, the nature of the invention, the state of the prior art, the level of one of ordinary skill, the level of predictability in the art, the amount of direction provided by the inventor, the existence of working examples and the quantity of experimentation needed to make or use the invention based on the content of the disclosure. *In re Wands*, 858 F.2d 731, 737, 8 U.S.P.Q.2d 1400, 1404 (Fed. Cir. 1988). Instead of considering any of the above-mentioned factors, the Examiner relies upon his own subjective opinion which is insufficient to support a rejection under 35 U.S.C. §112, first paragraph. The Examiner must consider all the evidence related to each of the above-mentioned factors and any conclusion of enablement must be based on the evidence as a whole. *In re Wands*, 858 F.2d at 737, 740, 8 U.S.P.Q.2d at 1404, 1407.

Accordingly, Applicants respectfully assert that claims 1-12 and 24-25 comply with the enablement requirement under 35 U.S.C. §112, first paragraph, and respectfully request the Examiner to withdraw the rejections to claims 1-12 and 24-25 under 35 U.S.C. §112, first paragraph.

II.   REJECTIONS UNDER 35 U.S.C. §112, SECOND PARAGRAPH:

The Examiner has rejected claims 14-18 and 27 under 35 U.S.C. §112, second paragraph, for insufficient antecedent basis. Paper No. 3, page 2. Applicants respectfully traverse.

As understood by the Applicants, the Examiner is asserting that the phrase "said binary executable boot code in each of said one or more identified terminals" in claim 14 lacks sufficient antecedent basis. Applicants respectfully direct the Examiner's attention to at least page 20, lines 14-15 of claim 13 as providing sufficient antecedent basis.

Further, as understood by the Applicants, the Examiner is asserting that the phrase "wherein said authentication is an authentication number used to permit installation of software" in claim 27 lacks sufficient antecedent basis. Applicants respectfully direct the Examiner's attention to at least page 25, line 7 of claim 26 as providing sufficient antecedent basis.

Accordingly, Applicants respectfully assert that claims 14-18 and 27 do not lack sufficient antecedent basis and accordingly request the Examiner to withdraw the rejections under 35 U.S.C. §112, second paragraph.

III.   REJECTIONS UNDER 35 U.S.C. §102(b):

The Examiner has rejected claims 13, 23 and 26 under 35 U.S.C. §102(b) as being anticipated by Keiter et al. (U.S. Patent No. 3,461,432) (hereinafter "Keiter"). Applicants respectfully traverse these rejections for at least the reasons stated below and respectfully request the Examiner to reconsider and withdraw these rejections.

For a claim to be anticipated under 35 U.S.C. §102, each and every claim limitation must be found within the cited prior art reference and arranged as required by the claim. M.P.E.P. §2131.

Applicants respectfully assert that Keiter does not disclose "wherein said memory unit is operable for storing a computer program, wherein the computer program is operable for performing the following programming steps: identifying a file associated with a binary executable boot code to update, wherein said binary executable boot code in said file comprises a first authentication; updating said first authentication in said binary executable boot code in said file to become a second authentication; identifying one or more terminals to be updated with said updated file, wherein each of said one or more terminals comprises a read only memory configured to store said binary executable boot code comprising said first authentication; and updating said binary executable boot code in each of said one or more identified terminals with said updated file, wherein, upon updating said binary executable boot code in each of said one or more identified terminals with said updated file, each of said one or more identified terminals stores said binary executable boot code comprising said second authentication in said read only memory" as recited in claim

13 and similarly in claim 23. The Examiner has not cited to any passage in Keiter as disclosing any of the above-indicated limitations. The Examiner is required in an anticipation rejection to provide a reference that expressly or inherently describes each and every element as set forth in the claim. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P. §2131. Since the Examiner has not cited to any passage in Keiter as disclosing any of the above-indicated limitations, the Examiner has not provided a *prima facie* case of anticipation in rejecting claims 13 and 23.

Applicants further assert that Keiter does not disclose "wherein said memory unit is operable for storing a computer program, wherein the computer program is operable for performing the following programming steps: creating a file comprising a binary executable boot code, wherein said binary executable boot code in said file comprises an authentication; identifying one or more terminals to store said file, wherein each of said one or more terminals comprises a read only memory; and storing said file in said read only memory in each of said identified one or more terminals, wherein each of said one or more identified terminals stores said binary executable boot code comprising said authentication in said read only memory" as recited in claim 26. The Examiner has not cited to any passage in Keiter as disclosing any of the above-indicated limitations. The Examiner is required in an anticipation rejection to provide a reference that expressly or inherently describes each and every element as set forth in the claim. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P. §2131. Since the Examiner has not cited to any passage in Keiter as disclosing any of the above-indicated limitations, the Examiner has not provided a *prima facie* case of anticipation in rejecting claim 26.

As a result of the foregoing, Applicants respectfully assert that not each and every claim limitation was found within the cited prior art reference, and thus claims 13, 23 and 26 are not anticipated by Keiter.

IV. <u>REJECTIONS UNDER 35 U.S.C. §103(a):</u>

The Examiner has rejected claims 1-3, 6-9, 12, 19-20 and 24 under 35 U.S.C. §103(a) as being unpatentable over Fuh et al. (U.S. Patent No. 6,609,154) (hereinafter "Fuh") in view of Wu et al. (U.S. Patent No. 6,732,267) (hereinafter "Wu"). The Examiner has further rejected claim 21 under 35 U.S.C. §103(a) as being unpatentable over Fuh in view of Wu and in further view of MacKenzie et al. (U.S. Patent No. 6,757,825) (hereinafter "MacKenzie"). Further, the Examiner has rejected claim 22 under 35 U.S.C. §103(a) as being unpatentable over Fuh in view of Wu and in further view of Weiler et al. (U.S. Patent No. 6,725,205) (hereinafter "Weiler"). Applicants respectfully traverse these rejections for at least the reasons stated below and respectfully request the Examiner to reconsider and withdraw these rejections.

A.   The Examiner has not provided any objective evidence or appropriate motivation for combining Fuh with Wu.

A *prima facie* showing of obviousness requires the Examiner to establish, *inter alia*, that the prior art references teach or suggest, either alone or in combination, all of the limitations of the claimed invention, and the Examiner must provide a motivation or suggestion to combine or modify the prior art reference to make the claimed inventions. M.P.E.P. §2142. The showings must be clear and particular and supported by objective evidence. *In re Lee*, 277 F.3d 1338, 1343, 61 U.S.P.Q.2d 1430, 1433-34 (Fed. Cir. 2002); *In re Kotzab*, 217 F.3d 1365, 1370, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000); *In re Dembiczak*, 50 U.S.P.Q.2d. 1614, 1617 (Fed. Cir. 1999). Broad conclusory statements regarding the teaching of multiple references, standing alone, are not evidence. *Id.*

The Examiner admits Fuh does not teach all the limitations involving "a binary executable boot code" as recited in claims 1 and 7. Paper No. 3, pages 5, 6. The Examiner's motivation for modifying Fuh with Wu to include the missing limitations is "to support new features and hardware." Paper No. 3, page 5. The Examiner's motivation is insufficient to support a *prima facie* case of obviousness for at least the reasons stated below.

The Examiner's motivation does not address as to why one of ordinary skill in the art with the primary reference (Fuh) in front of him would modify Fuh to identify

a file associated with a binary executable boot code to update; update a first authentication in the binary executable boot code; update the binary executable boot code in each of the identified terminal with the updated file, etc. Fuh teaches authentication and authorization mechanisms for network devices such as routers and firewalls. Column 1, lines 14-17. Fuh further teaches a need for an authentication and authorization mechanism in the context of remote access via the Internet that does not rely on telnet and that allows the passage of different types of traffic for a given connection. Column 3, lines 3-6. The Examiner's motivation for modifying Fuh to include the above-cited limitations is "to support new features and hardware." This is not evidence that one of ordinary skill in the art would modify Fuh, which teaches authentication and authorization mechanisms for network devices such as routers and firewalls, to include the above-cited limitations. The Examiner has not provided any evidence as to how supporting new features and hardware is connected to modifying Fuh, which teaches authentication and authorization mechanisms for network devices such as routers and firewalls, to identify a file associated with a binary executable boot code to update; update a first authentication in the binary executable boot code; update the binary executable boot code in each of the identified terminal with the updated file, etc. The Examiner is merely relying upon his own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 1-3, 6-9, 12, 19-20 and 24. *Id.*

B.   The Examiner has not provided any motivation for modify Fuh to include the limitations of claims 2, 3, 6, 19 and 24.

The Examiner admits that Fuh does not teach the limitations of claims 2, 3, 6, 19 and 24. Paper No. 3, pages 5, 7. In order to support a *prima facie* case of obviousness, the Examiner must present a motivation or suggestion to modify the reference or to combine reference teachings. M.P.E.P. §2143. Since the Examiner has not presented any motivation to modify Fuh to include the limitations of claims 2, 3, 6, 19 and 24, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 2, 3, 6, 19 and 24. .M.P.E.P. §2143.

C.   Fuh and Wu, taken singly or in combination, do not teach or suggest the following claim limitations.

Appellants respectfully assert that Fuh and Wu, taken singly or in combination, do not teach or suggest "identifying a file associated with a binary executable boot code to update, wherein said binary executable boot code in said file comprises a first authentication" as recited in claim 1 and similarly in claim 7. The Examiner cites column 10, lines 55-59 of Fuh as teaching the above-cited claim limitation except for the aspect of a "binary executable boot code". Paper No. 3, page 4. The Examiner further cites column 1, lines 30-35 of Wu as teaching a "binary executable boot code." Paper No. 3, page 5. Applicants respectfully traverse.

Fuh instead teaches an authentication proxy searches authentication caches for the source IP addresses. Column 10, lines 55-56. Fuh further teaches that the goal of this search is to determine if the source IP address of the HTTP packet corresponds to an entry in any of the authentication caches. Column 10, lines 56-58. There is no language in the cited passage that teaches identifying a file with code to update. Instead, Fuh teaches searching caches for the source IP addresses. Neither is there any language in the cited passage that teaches that the code in the file includes an authentication. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1 and 7, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Furthermore, Wu instead teaches updating the system BIOS. Column 1, lines 30-35. However, there is no language in Wu that teaches a binary executable boot code comprises an authentication. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1 and 7, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Applicants further assert that Fuh and Wu, taken singly or in combination, do not teach or suggest "updating said first authentication in said binary executable boot

code in said file to become a second authentication" as recited in claim 1 and similarly in claim 7. The Examiner cites step 732 of Fuh as teaching the above-cited claim limitation except for the aspect of a "binary executable boot code". Paper No. 3, page 4. The Examiner further cites column 1, lines 30-35 of Wu as teaching a "binary executable boot code." Paper No. 3, page 5. Applicants respectfully traverse.

Fuh instead teaches that in step 732, the process updates the current authentication cache with the source IP address of the client and with information contained in the user profile. Column 12, lines 39-42. There is no language in the cited passage that teaches updating an authentication in code to become a second authentication. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1 and 7, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Furthermore, Wu instead teaches updating the system BIOS. Column 1, lines 30-35. However, there is no language in Wu that teaches updating an authentication in a binary executable boot code to become a second authentication. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1 and 7, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Applicants further assert that Fuh and Wu, taken singly or in combination, do not teach or suggest "identifying one or more terminals to be updated with said updated file, wherein each of said one or more terminals comprises a read only memory configured to store said binary executable boot code comprising said first authentication" as recited in claim 1 and similarly in claim 7. The Examiner cites step 732 and elements 210 and 108 of Fuh as teaching the above-cited claim limitation except for the aspect of a "binary executable boot code". Paper No. 3, page 4. The Examiner further cites column 1, lines 30-35 of Wu as teaching a "binary executable boot code." Paper No. 3, page 5. Applicants respectfully traverse.

Fuh instead teaches that in step 732, the process updates the current authentication cache with the source IP address of the client and with information contained in the user profile. Column 12, lines 39-42. Fuh further teaches that element 210 corresponds to a router and that element 108 corresponds to a read-only memory. There is no language in the cited passage that teaches identifying a terminal to be updated. Neither is there any language in the cited passage that teaches identifying a terminal to be updated with an updated file. Neither is there any language in the cited passage that teaches that each terminal includes a read only memory configured to store code that includes an authentication. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1 and 7, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Furthermore, Wu instead teaches updating the system BIOS. Column 1, lines 30-35. However, there is no language in Wu that teaches that each terminal includes a read only memory that is configured to store binary executable boot code including an authentication. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1 and 7, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Applicants further assert that Fuh and Wu, taken singly or in combination, do not teach or suggest "updating said binary executable boot code in each of said one or more identified terminals with said updated file, wherein, upon updating said binary executable boot code in each of said one or more identified terminals with said updated file, each of said one or more identified terminals stores said binary executable boot code comprising said second authentication in said read only memory" as recited in claim 1 and similarly in claim 7. The Examiner cites step 732 and element 108 of Fuh as teaching the above-cited claim limitation except for the aspect of a "binary executable boot code". Paper No. 3, pages 4-5. The Examiner further states that it is "inherent that the new authentication information is stored in memory." Paper No. 3, page 5. The Examiner further cites column 1, lines 30-35 of

Wu as teaching a "binary executable boot code." Paper No. 3, page 5. Applicants respectfully traverse.

Fuh instead teaches that in step 732, the process updates the current authentication cache with the source IP address of the client and with information contained in the user profile. Column 12, lines 39-42. Furthermore, element 108 corresponds to a read-only memory. There is no language in the cited passage that teaches updating code in a terminal. Neither is there any language in the cited passage that teaches updating code in a terminal with an updated file. Neither is there any language in the cited passage that teaches upon updating code in a terminal with an updated file, the terminal stores code comprising a second authentication in read only memory. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1 and 7, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Furthermore, Wu instead teaches updating the system BIOS. Column 1, lines 30-35. However, there is no language in Wu that teaches updating binary executable boot code in a terminal. Neither is there any language in the cited passage that teaches updating binary executable boot code in a terminal with an updated file. Neither is there any language in the cited passage that teaches upon updating binary executable boot code in a terminal with an updated file, the terminal stores binary executable boot code comprising a second authentication in read only memory. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1 and 7, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Furthermore, Applicants respectfully traverse the Examiner's assertion that it is "inherent that the new authentication information is stored in memory (referring to element 108 of Fuh)". The Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that it is inherent in storing a

second authentication in element 108 of Fuh. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, in order for the Examiner to establish inherency, the Examiner must provide extrinsic evidence that must make clear that it is inherent in storing a second authentication in element 108 of Fuh, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Inherency, however, may not be established by probabilities or possibilities. *Id.* The mere fact that a certain thing may resolve from a given set of circumstances is not sufficient. *Id.* Therefore, the Examiner must support the inherency argument with objective evidence meeting the above requirements. However, the Examiner has not supported his assertion that Fuh inherently teaches storing a second authentication in element 108 of Fuh. Therefore, the Examiner has not presented a *prima facie* case of obviousness for rejecting claims 1 and 7. M.P.E.P. §2143.

Applicants further assert that Fuh and Wu, taken singly or in combination, do not teach or suggest "wherein said memory unit stores a binary executable boot code, wherein said binary executable boot code comprises an authentication" as recited in claim 19. The Examiner cites element 108 of Fuh as teaching a memory unit and column 10, lines 55-59 of Fuh as teaching the above-cited claim limitation except for the aspect of a "binary executable boot code". Paper No. 3, page 7. The Examiner further cites column 1, lines 30-35 of Wu as teaching a "binary executable boot code." Paper No. 3, page 5. Applicants respectfully traverse.

Fuh instead teaches an authentication proxy searches authentication caches for the source IP addresses. Column 10, lines 54-56. Fuh further teaches that element 108 corresponds to a ROM. There is no language in Fuh that teaches a memory unit that stores code that includes an authentication. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 19, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Furthermore, Wu instead teaches updating the system BIOS. Column 1, lines 30-35. However, there is no language in Wu that teaches a binary executable boot code that includes an authentication. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 19, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Applicants further assert that Fuh and Wu, taken singly or in combination, do not teach or suggest "creating a file comprising a binary executable boot code, wherein said binary executable boot code in said file comprises an authentication" as recited in claim 24. The Examiner cites elements 400 and 403 and column 10, lines 55-59 of Fuh as teaching the above-cited claim limitation except for the aspect of a "binary executable boot code". Paper No. 3, page 7. The Examiner further cites column 1, lines 30-35 of Wu as teaching a "binary executable boot code." Paper No. 3, page 5. Applicants respectfully traverse.

Fuh instead teaches an authentication proxy searches authentication caches for the source IP addresses. Column 10, lines 54-56. Fuh further teaches that element 400 corresponds to an authentication proxy and that element 432 corresponds to authentication caches. There is no language in Fuh that teaches creating a file. Neither is there any language in Fuh that teaches creating a file comprising code, where the code in the file comprises an authentication. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 24, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Furthermore, Wu instead teaches updating the system BIOS. Column 1, lines 30-35. However, there is no language in Wu that teaches binary executable code in a file that includes an authentication. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 24, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Furthermore, in connection with the rejection of the above-identified limitation, the Examiner states that creating a file is inherent. Paper No. 3, page 7. The Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that it is inherent in Fuh to create a file. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, in order for the Examiner to establish inherency, the Examiner must provide extrinsic evidence that must make clear that it is inherent in Fuh to create a file, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Inherency, however, may not be established by probabilities or possibilities. *Id.* The mere fact that a certain thing may resolve from a given set of circumstances is not sufficient. *Id.* Therefore, the Examiner must support the inherency argument with objective evidence meeting the above requirements. However, the Examiner has not supported his assertion that Fuh inherently teaches creating a file. Therefore, the Examiner has not presented a *prima facie* case of obviousness for rejecting claim 24. M.P.E.P. §2143.

Applicants further assert that Fuh and Wu, taken singly or in combination, do not teach or suggest "identifying one or more terminals to store said file, wherein each of said one or more terminals comprises a read only memory" as recited in claim 24. The Examiner cites elements 210 and 108 of Fuh as teaching the above-cited claim limitation. Paper No. 3, page 8. Applicants respectfully traverse and assert that Fuh instead teaches that element 210 corresponds to a router and element 108 corresponds to a ROM. There is no language in Fuh that teaches identifying a terminal to store a file. Therefore, the Examiner has not presented a *prima facie* case of obviousness for rejecting claim 24. M.P.E.P. §2143.

Furthermore, in connection with the rejection of the above-identified limitation, the Examiner states that identifying a terminal is inherent. Paper No. 3, page 8. The Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that it is inherent in Fuh to identify a terminal. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, in order for the Examiner to establish inherency, the Examiner must provide extrinsic

evidence that must make clear that it is inherent in Fuh to identify a terminal, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Inherency, however, may not be established by probabilities or possibilities. *Id*. The mere fact that a certain thing may resolve from a given set of circumstances is not sufficient. *Id*. Therefore, the Examiner must support the inherency argument with objective evidence meeting the above requirements. However, the Examiner has not supported his assertion that Fuh inherently teaches identifying a terminal. Therefore, the Examiner has not presented a *prima facie* case of obviousness for rejecting claim 24. M.P.E.P. §2143.

Applicants further assert that Fuh and Wu, taken singly or in combination, do not teach or suggest "storing said file in said read only memory in each of said identified one or more terminals, wherein each of said one or more identified terminals stores said binary executable boot code comprising said authentication in said read only memory" as recited in claim 24. The Examiner cites elements 732 and 108 of Fuh as teaching the above-cited claim limitation except for the aspect of a "binary executable boot code". Paper No. 3, page 7. The Examiner further cites column 1, lines 30-35 of Wu as teaching a "binary executable boot code." Paper No. 3, page 5. Applicants respectfully traverse.

Fuh instead teaches that element 732 corresponds to a step which involves updating a cache with a source IP address of a client and with information contained in a user profile. Column 12, lines 39-42. Fuh further teaches that element 108 corresponds to a ROM. There is no language in Fuh that teaches storing a file in a read only memory in a terminal. Neither is there any language in Fuh that teaches that a terminal stores code that includes an authentication in the read only memory. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 24, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Wu instead teaches updating the system BIOS. Column 1, lines 30-35. However, there is no language in Wu that teaches a terminal that stores binary

executable code that includes an authentication. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 24, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Claims 2-3 and 6 recite combinations of features including the above combinations of features in independent claim 1 upon which they depend, and thus are not anticipated for at least the above-stated reasons that claim 1 is patentable over Fuh in view of Wu. Claims 8-9 and 12 recite combinations of features including the above combinations of features in independent claim 7 upon which they depend, and thus are not anticipated for at least the above-stated reasons that claim 7 is patentable over Fuh in view of Wu. Claim 20 recites combinations of features including the above combinations of features in independent claim 19 upon which it depends, and thus are not anticipated for at least the above-stated reasons that claim 19 is patentable over Fuh in view of Wu. Claims 2-3, 6, 8-9, 12 and 20 recite additional features which, in combination with the features of the independent claims upon which they depend, are patentable over Fuh in view of Wu.

For example, Fuh and Wu, taken singly or in combination, do not teach or suggest "wherein said binary executable boot code in each of said one or more identified terminals is updated via a network" as recited in claim 2 and similarly in claim 8. The Examiner cites element 405 of Fuh as teaching the above-cited claim limitation except for the aspect of a "binary executable boot code". Paper No. 3, page 5. The Examiner further states that it is "inherent that the new authentication information is stored in memory." Paper No. 3, page 5. The Examiner further cites column 1, lines 30-35 of Wu as teaching a "binary executable boot code." Paper No. 3, page 5. Applicants respectfully traverse.

Fuh instead teaches that element 405 corresponds to a path where an authentication proxy attempts to authenticate the user by sending the username and password. Column 12, lines 28-30. There is no language in the cited passage that teaches code in a terminal being updated via a network. Therefore, the Examiner has

not presented a *prima facie* case of obviousness in rejecting claims 2 and 8, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Furthermore, Wu instead teaches updating the system BIOS. Column 1, lines 30-35. However, there is no language in Wu that teaches binary executable boot code in a terminal being updated via a network. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 2 and 8, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Applicants further assert that Fuh and Wu, taken singly or in combination, do not teach or suggest "wherein said binary executable boot code in each of said one or more identified terminals is updated via a storage medium" as recited in claim 3 and similarly in claim 9. The Examiner cites element 218 of Fuh as teaching the above-cited claim limitation except for the aspect of a "binary executable boot code". Paper No. 3, page 5. The Examiner further states that it is "inherent that the new authentication information is stored in memory." Paper No. 3, page 5. The Examiner further cites column 1, lines 30-35 of Wu as teaching a "binary executable boot code." Paper No. 3, page 5. Applicants respectfully traverse.

Fuh instead teaches that element 218 corresponds to a server. There is no language in the Fuh that teaches code in a terminal being updated via a storage medium. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 3 and 9, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Furthermore, Wu instead teaches updating the system BIOS. Column 1, lines 30-35. However, there is no language in Wu that teaches binary executable boot code in a terminal being updated via a storage medium. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 3 and 9, since the

Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

As a result of the foregoing, Applicants respectfully assert that there are numerous claim limitations not taught or suggested in the cited prior art, and thus the Examiner has not presented a *prima facie* case of obviousness for rejecting claims 1-20. M.P.E.P. §2143.

D.   The Examiner has not provided any objective evidence or appropriate motivation for combining Fuh and Wu with MacKenzie.

As stated above, a *prima facie* showing of obviousness requires the Examiner to establish, *inter alia*, that the prior art references teach or suggest, either alone or in combination, all of the limitations of the claimed invention, and the Examiner must provide a motivation or suggestion to combine or modify the prior art reference to make the claimed inventions. M.P.E.P. §2142. The showings must be clear and particular and supported by objective evidence. *In re Lee*, 277 F.3d 1338, 1343, 61 U.S.P.Q.2d 1430, 1433-34 (Fed. Cir. 2002); *In re Kotzab*, 217 F.3d 1365, 1370, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000); *In re Dembiczak*, 50 U.S.P.Q.2d. 1614, 1617 (Fed. Cir. 1999). Broad conclusory statements regarding the teaching of multiple references, standing alone, are not evidence. *Id.*

The Examiner admits Fuh does not teach that the authentication is a password, as recited in claim 21. Paper No. 3, page 8. The Examiner's motivation for modifying Fuh and Wu with MacKenzie to have the authentication that is a password is "to add a level of security." Paper No. 3, page 8. The Examiner's motivation is insufficient to support a *prima facie* case of obviousness for at least the reasons stated below.

The Examiner's motivation does not address as to why one of ordinary skill in the art with the primary reference (Fuh) in front of him would modify Fuh to have an authentication that is a password. Fuh teaches authentication and authorization mechanisms for network devices such as routers and firewalls. Column 1, lines 14-17. Fuh further teaches a need for an authentication and authorization mechanism in

the context of remote access via the Internet that does not rely on telnet and that allows the passage of different types of traffic for a given connection. Column 3, lines 3-6. The Examiner's motivation for modifying Fuh to have an authentication that is a password is "to add a level of security." This is not evidence that one of ordinary skill in the art would modify Fuh, which teaches authentication and authorization mechanisms for network devices such as routers and firewalls, to have an authentication that is a password. The Examiner has not provided any evidence as to how to add a level of security is connected to modifying Fuh, which teaches authentication and authorization mechanisms for network devices such as routers and firewalls, to have an authentication that is a password. The Examiner is merely relying upon his own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claim 21. *Id.*

      E.   The Examiner has not provided any objective evidence or appropriate motivation for combining Fuh and Wu with Weiler.

As stated above, a *prima facie* showing of obviousness requires the Examiner to establish, *inter alia*, that the prior art references teach or suggest, either alone or in combination, all of the limitations of the claimed invention, and the Examiner must provide a motivation or suggestion to combine or modify the prior art reference to make the claimed inventions. M.P.E.P. §2142. The showings must be clear and particular and supported by objective evidence. *In re Lee*, 277 F.3d 1338, 1343, 61 U.S.P.Q.2d 1430, 1433-34 (Fed. Cir. 2002); *In re Kotzab*, 217 F.3d 1365, 1370, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000); *In re Dembiczak*, 50 U.S.P.Q.2d. 1614, 1617 (Fed. Cir. 1999). Broad conclusory statements regarding the teaching of multiple references, standing alone, are not evidence. *Id.*

The Examiner admits Fuh does not teach that the authentication is an authentication number used to permit installation of software, as recited in claim 22. Paper No. 3, page 8. The Examiner's motivation for modifying Fuh and Wu with Weiler to have an authentication number that is used to permit installation of software

is·"to enhance system security (column 2, lines 42-44)." Paper No. 3, page 9. The Examiner's motivation is insufficient to support a *prima facie* case of obviousness for at least the reasons stated below.

The Examiner's motivation does not address as to why one of ordinary skill in the art with the primary reference (Fuh) in front of him would modify Fuh to have an authentication number that is used to permit installation of software. Fuh teaches authentication and authorization mechanisms for network devices such as routers and firewalls. Column 1, lines 14-17. Fuh further teaches a need for an authentication and authorization mechanism in the context of remote access via the Internet that does not rely on telnet and that allows the passage of different types of traffic for a given connection. Column 3, lines 3-6. The Examiner's motivation for modifying Fuh to have an authentication number that is used to permit installation of software is "to enhance system security." This is not evidence that one of ordinary skill in the art would modify Fuh, which teaches authentication and authorization mechanisms for network devices such as routers and firewalls, to have an authentication number that is used to permit installation of software. The Examiner has not provided any evidence as to how to add a level of security is connected to modifying Fuh, which teaches authentication and authorization mechanisms for network devices such as routers and firewalls, to have an authentication number that is used to permit installation of software. The Examiner is merely relying upon his own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claim 22. *Id.*

Furthermore, the Examiner cites column 2, lines 42-44 of Weiler as support for his motivation. Weiler teaches that by encrypting the serial number on the software distribution medium and on the hard disk drives, system security is further enhanced. Column 2, lines 42-44. There is no language in the passage cited by the Examiner as support for his motivation that states that having an authentication number used to permit installation of software enhances system security as asserted

by the Examiner. Instead, Weiler simply teaches that encrypting the serial number enhances system security. Hence, the Examiner's motivation is not related to modifying Fuh to have an authentication number that is used to permit installation of software. Again, the Examiner is merely relying upon his own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claim 22. *Id.*

F.   Fuh, Wu and Weiler, taken singly or in combination, do not teach or suggest the following claim limitations.

Applicants respectfully assert that Fuh, Wu and Weiler, taken singly or in combination, do not teach or suggest "wherein said authentication is an authentication number used to permit installation of software" as recited in claim 22. The Examiner cites column 4, lines 26-31 of Weiler as teaching the above-cited claim limitation. Paper No. 3, page 8. Applicants respectfully traverse.

Weiler instead teaches that to prevent the new and upgraded software from unauthorized copying and distribution, the present invention provides a uniform system serial number to associate particular software with a particular system. Column 4, lines 26-29. Only one instance of the serial number is used to authenticate the software and hard disk drives on the particular system. Column 4, lines 29-31. Hence, Weiler teaches providing a system serial number to associate software with a system where the serial number is used to authenticate the software and hard disk drives. There is no language in the cited passage in Weiler that teaches an authentication number used to permit installation of software. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 22, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).
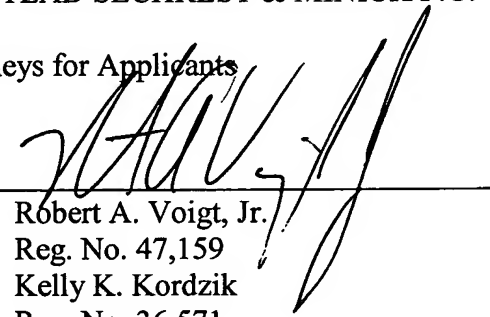
V. CONCLUSION

As a result of the foregoing, it is asserted by Applicants that claims 1-27 in the Application are in condition for allowance, and Applicants respectfully request an allowance of such claims. Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

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